The Phnom Penh Post

Evidence of intent lacking

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My point was that there is no evidence of the requisite genocidal intent, which Alex Hinton still appears to misunderstand (Post, December 2, 2005). It is understandable, as Hinton is no lawyer. I maintain he is wrong both in law and in fact.

To prove he is not wrong on his genocide claim, Hinton invoked three sources to support his assertion of genocide against Cham and Vietnamese ethnicities:

(1)Ysa Osman's study (Oukoubah, 2002) in which he found that "as many as 400,000 to 500,000 of Cambodia's 700,000 ethnic Chams perished during DK." Over 200,000 survived in 1979, p2.

Hinton apparently does not know that Ysa Osman's figures have been discredited, for they were not based on reliable (documentary) evidence. For example, Osman's assertion that there were 700,000 Cham, which he said was 10 percent of the Cambodia's population by the time the KR took over in April 1975, is based on his interviews of Cham elders who provided no documentary evidence, but rumors. The 10 percent originated from a 1974 political tract, Khmer Muslims' Martyrdom, by General Les Kasem who was a top (Cham) political figure of the Khmer Republic in charge, along with Haji Reslah, of the Islamic Affairs Bureau, (Kasem's KR counterpart then was (Cham) Mat Ly). This tract was obviously a war propaganda piece and was announced occasionally by the Republic's state radio. Perhaps what Osman and his sources missed was that the radio announcement or the 1974 tract did not state that the Cham were 10 percent of the whole population. A careful reading would tell that the 10 percent was for only Phnom Penh, six provinces and small villages in Cambodia.

Most studies put the number of Cham, at most, at 1.5-to-3 percent of the population. The UN's figure (1968) was 1.5 percent.

According to the 1936 census, there were about 73,465 Chams. In 1962, the Government's figure was about 110,000. Michael Vickery (BCAS, 1990) estimated 191,000 Chams by 1975 of whom about 11,000 died during DK. Ben Kiernan (BCAS, 1990, CAS, 2003), who dismissed the 700,000 figures and Vickery's, came up with inflated figures of 249,450 Cham by 1975, of whom 90,000 died under DK. Osman did not include about 10,000 to 15,000 Cham who were killed by Thai Army in May 1979 [OR] and who left Cambodia. Other than the above speculation, the real death toll is unknown.

(2) Hinton, citing Ben Kiernan (Pol Pol Regime), claimed "almost all of 20,000 or so ethnic minorities who remained after the 1975 expulsion of Vietnamese perished." In fact, Kiernan did not say that. Citing journalist Nayan Chanda's Brother Enemy, Kiernan estimated about 10,000 Vietnamese remained after the DK expulsion. This is how Kiernan came to this figure: in early 1970 there were 450,000 Vietnamese; 310,000 fled to Vietnam by August 1970 leaving 140,000 in Cambodia. From 1970 to 1975, with 2.46 percent growth rate a year, they were about 160,000 in April 1975, of whom 150,000 left by September 1975; thus 10,000 remained in Cambodia (p296).

Keirnan's problem is that, according to the official figures by Vietnam and PRK (1985), Lon Nol expelled 200,000 Vietnamese and from 1975 to 1978, the DK expelled 268,000. Thus, there were not 10,000 remaining, as claimed by Kiernan.

(3) Perhaps to prove the genocidal intent, Mr Hinton, predictably, has relied upon a former KR cadre having told him that "killing took place after the subdistrict office received a letter specifying that that ethnic Chams and Vietnamese...should

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be swept clean."

First of all (a) there are no known documents suggesting an existence of such a "letter" or policy, to which surviving (Toul Sleng) documents/confessions would certainly have referred; (b) officially and administratively, there was no "subdistrict." Cambodia was divided into Region, Zone, District, Large Production Unit and Small Production Unit; (c) certainly, there was no "office;" and (d) the Cham were not anywhere near being "swept clean." Thus, either the KR cadre lied to Hinton or the interview did not happen. The fact that the majority of the DK top leaders were from various (Sino/Viet/Cham) ethnicities supports a lack of genocidal intent towards ethnic minorities.

True, during the preparation of the United Nations Convention on Genocide, and for their sins, the Soviet bloc blocked out the inclusion of "political genocide." Likewise, the US bloc opposed the inclusion of "cultural genocide" which the Soviet bloc wanted in: (UNYB,1947-8). The net result is that genocide is codified in an international law (the Genocide Convention) which expressly excluded political, socio-economic and cultural groups as protected groups.

In the 1999 KR law draft proposal, the Royal Government wanted to include these groups in the genocide section of the KR trial law. The UN rejected this proposal on the basis of "nullem crimen sine lege" or the prohibition of retroactive crimes.

No international or mixed tribunal has to date included political, socio-economic or cultural groups as protected groups. Thus killing of these groups as being genocide will definitely remain Alex Hinton's figment of academic imagination or confusion.

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